



# Town of Stafford

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## Capital Projects

2024M-17 | July 2024

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# Report Highlights

## Town of Stafford

### Audit Objective

Determine whether the Town of Stafford (Town) Town Board (Board) properly authorized and monitored capital project activity.

### Key Findings

The Board did not properly authorize and monitor capital project activity. Because the Board relied on an engineering firm (Engineer) and a financial advisor (Advisor) to manage the capital projects, the Board was not aware of project overruns, cash flow issues or financing source shortfalls. Moreover, the Board created a taxpayer equity issue when a portion of the costs to construct water districts was paid for by taxpayers not living in or receiving benefit from these water districts. Specifically, the Board and Town Supervisor (Supervisor) did not:

- Maintain adequate capital project accounting records or prepare monthly itemized capital project budget-to-actual reports for the Board.
- Include eligible expenditures totaling \$3,496 in the grant reimbursement applications. As a result, the Town received less funding than it was entitled to.

### Key Recommendations

- Adopt itemized capital project budgets.
- Maintain complete and accurate accounting records and provide periodic financial reports to the Board.

Town officials disagreed with certain aspects of our findings. Appendix B includes our comments on issues raised in the Town's response.

### Audit Period

January 1, 2018 – November 21, 2023.

We extended our audit period back to November 14, 2016 to review capital project authorizations.

### Background

The Town is located in Genesee County and is governed by the elected five-member Board, including the Supervisor. The Board is responsible for the oversight and management of capital projects.

The Supervisor is the Town's chief financial officer and is responsible for performing accounting functions, including maintaining capital project accounting records and providing monthly financial reports to the Board.

A part-time Financial Clerk performs bookkeeping duties for and assists the Supervisor in performing his financial duties such as preparing accounting entries, printing checks and preparing monthly financial reports. The Board also contracted with the Engineer and Advisor to monitor and manage the Town's capital projects.

#### Quick Facts

##### Capital Projects:

Number	4
Total Maximum Authorized Costs	\$5.8 million
Total Expenditures Paid as of November 14, 2023	\$3.8 million

# Capital Projects

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## How Should Capital Project Activity be Authorized and Monitored?

A town board (board) is responsible for the oversight and management of capital projects, including ensuring that they are properly planned, project funding is authorized and costs are kept within the approved budget.<sup>1</sup>

A board should adopt itemized capital project budgets that include the anticipated funding sources and estimated expenditures for each individual capital project. The project budgets should be formally established by the board, documented in meeting minutes and recorded in the accounting records. Each project requires its own set of accounting records to document the project's complete financial history, which may span several fiscal years. Once a capital project budget has been established and the project has begun, the board should monitor the project activity on a regular basis. At a minimum, such monitoring should include a periodic review of project expenditures in relation to the approved budget and a periodic assessment of the availability and timeliness of the project financing sources needed to maintain adequate cash flow.

Generally, the project budget should only be amended with board approval. With any construction undertaking, changes or amendments to the project will likely occur because certain variables may not be known at the start of a capital project. In the case of a capital project, change orders typically are a formal construction contract modification, agreed upon by town officials and the contractor, to authorize changes to a project's scope, cost or estimated completion time. Because the board authorizes construction contracts, it must also review proposed changes to these agreements. Change orders must be presented to the board for approval in a timely manner and should be reviewed by the board as promptly as possible to ensure each change order is approved before any additional work is started.

A town supervisor (supervisor) is responsible for properly recording the project budget and subsequent financial activities in the capital projects fund. A separate capital projects fund must be established to account for the financing sources and expenditures of each individual authorized project. Separate funds are needed because capital projects are budgeted on an individual project basis and the legal and contractual requirements vary by project. As chief financial officer, the supervisor must maintain individual accounting records for each capital project. In addition, New York State Local Finance Law (LFL) Section 165.00 requires any bond, bond anticipation note or capital note proceeds issued to wholly or partially finance a capital project to be deposited in a separate bank account. These funds may only be commingled with other funds appropriated for the purpose for which such obligations were issued.

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<sup>1</sup> Refer to our publication Capital Projects Fund. <https://www.osc.ny.gov/files/local-government/publications/pdf/capital-projects-fund.pdf> Pages 6-10

If the supervisor assigns the financial duties pertaining to capital projects to others, the supervisor maintains the responsibility for the accuracy and timeliness of the financial records and reports. As such, the supervisor should provide sufficient oversight to ensure suitable records are maintained, financial information is documented accurately and that timely and useful reports are provided to the board.

Upon the project’s completion, town officials should take necessary actions to finalize the project, including that the board should approve the project’s closure and the supervisor should close out the accounting records.

### **Capital Project Budgets and Change Orders Were Not Properly Authorized and Certain Project Costs Exceeded Authorized Amounts**

Although the Board adopted bond resolutions authorizing financing and establishing a maximum total cost for each project, the Board did not adopt an itemized budget for each individual project or approve project budget modifications and change orders. Consequently, the Board did not establish a reasonable basis to provide proper budgetary control and oversee each capital project to ensure that total expenditures did not exceed the authorized maximum cost.

During our audit period, the Town commenced four capital projects including a Town hall court expansion and the establishment of three new water districts. The Board adopted resolutions to authorize spending approximately \$5.8 million for these projects as shown in Figure 1.

**Figure 1: Capital Projects During Audit Period**

<b>Project</b>	<b>Authorization Date</b>	<b>Authorized Maximum Cost</b>	<b>Status</b>
<b>Town Hall Court Expansion</b>	5/8/2017	\$176,000	Completed
<b>Water District #11</b>	11/14/2016	1,052,000	Completed
<b>Water District #12</b>	Original - 10/19/2020 Modified - 3/13/2023	4,479,000	Active
<b>Water District #13</b>	3/9/2020	50,000	Completed
<b>Total</b>		<b>\$5,757,000</b>	

The Supervisor and two Board members told us that the maximum cost for each project was based on estimates prepared by the Engineer. While the Engineer prepared detailed budgets for each project, the budgets were not entered into the accounting records, and neither the Supervisor nor the Financial Clerk prepared periodic budget-to-actual expenditure reports for the Board to monitor capital project spending. Instead, the Board relied on the Engineer to monitor spending and project costs and did not request these reports. As a result of the Board’s

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lack of monitoring and oversight, expenditures for the Town hall court expansion exceeded the Board authorized maximum cost by \$43,573 and the water district #13 project exceeded the Board authorized maximum cost by \$598. The water district #11 project was below the Board authorized maximum cost by \$69,926. The water district #12 project was an active project as of the end of our audit fieldwork and had spent \$2,542,000 of the Board authorized maximum cost of \$4,479,000.

In addition, the Supervisor authorized three change orders totaling \$224,062 which included one for each water district: #11 - \$185,116, #12 - \$38,446, and #13 - \$500. Although this additional work was necessary and within the scope of the project, the Board only approved the \$38,446 change order for the water district #12 project. The remaining two change orders, totaling \$185,616, required Board approval but were only approved by the Supervisor.

The Supervisor and two Board members told us that the Board authorized the Supervisor to make any capital project related decisions on the Board's behalf. Although the Board adopted a resolution authorizing the Supervisor to make any capital project decisions for the water district #11 and #12 projects, it is the Board's responsibility to ensure projects are properly planned and managed, and costs are kept within the approved budget. Therefore, it is essential the Board monitor project progress and costs and maintain control over change order activity.

Because the Board did not adopt an itemized budget, monitor project costs or review and approve change orders, the Board did not properly monitor capital projects to ensure they were completed in a cost-effective manner. In addition, the Town overspent on two projects by approximately \$44,000 and could overspend on the remaining ongoing water district #12 project unless monitoring procedures are implemented.

### **The Supervisor Did Not Maintain Adequate Accounting Records or Separate Bank Accounts for Debt Proceeds**

The Supervisor did not maintain separate capital projects funds or require the Financial Clerk to maintain separate accounting records for each authorized capital project. Capital project activities were generally recorded in one combined capital projects fund and:

- Capital project expenditures related to the Town hall court expansion, totaling \$70,520, were improperly recorded in the general fund.
- The Supervisor did not deposit the debt proceeds used to finance the water district #11 and #12 projects into separate bank accounts as required by LFL Section 165.00.

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The Supervisor deposited debt proceeds into the Towns' combined checking account used for the Town's various operating funds, including the general, highway, capital projects and water funds. As a result, debt proceeds totaling \$3.9 million for the water district #11 project (\$1.2 million) and water district #12 project (\$2.7 million) were improperly commingled with operating funds, and debt proceeds totaling \$22,500 were used temporarily to pay for Town operating expenditures. Debt proceeds must be used for the purpose for which the debt was issued and cannot be used, even temporarily, for operating expenditures. Neither the Supervisor nor the Financial Clerk knew about the legal requirement to maintain a separate bank account for debt proceeds. They were also not aware that debt proceeds had been used improperly for Town operating expenditures because they did not perform cash flow analyses or properly account for and segregate capital project financial activity.

The Supervisor relied on the Financial Clerk to maintain the accounting records and prepare monthly financial reports with limited oversight. Although the Financial Clerk regularly prepared monthly financial reports for the Supervisor including a cash balance report, balance sheet and trial balance for each fund, the Supervisor only reviewed the cash balance report. In addition, because these reports did not segregate capital project financial activity, the Board could not use them to effectively monitor the capital projects.

Without adequate accounting records and regular financial reports, the Supervisor and Board could not properly track capital project activity or financing sources for individual capital projects to ensure funds were used properly.

### **Capital Projects Were Not Properly Monitored and Eligible Expenditures Were Not Reimbursed**

The Board did not implement procedures to properly monitor capital project financial activity. As previously indicated above, the Board did not adopt detailed capital project budgets and neither the Board nor the Supervisor regularly reviewed capital project costs or spending. Additionally, the Board did not monitor project financing sources and cash flow or require the Supervisor to ensure sufficient funds were available for project expenditures. As a result, Town operating funds were used to pay for a portion of the costs incurred to establish and construct the water district #11 and #12 projects.

The Board adopted a bond resolution for the water district #12 project in October 2020. The resolution authorized officials to use bond anticipation notes (BANs), which are short-term financing instruments typically used for cash flow, but officials did not issue a BAN until October 4, 2022, or two years later. Instead of issuing a BAN for cash flow, officials used Town operating funds totaling \$285,434 to finance pre-construction expenditures for the water district #12 project such as engineering costs for the preliminary studies, design and bid specifications.

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Although the Board may authorize the Supervisor to temporarily advance money from an operating fund to the capital projects fund when cash flow is needed, all such interfund advances must be repaid to the fund from which it was advanced as soon as available, but no later than the fiscal year in which the advance was made.<sup>2</sup> However, the Supervisor did not ensure that the Financial Clerk recorded these temporary interfund advances in the accounting records and officials did not repay the operating funds that advanced the startup funds for the project, as required.

Similarly, the expenditures for the water district #11 project totaled \$982,074. However, the project's financing sources totaled \$973,953, or \$8,121 less than expenditures.<sup>3</sup> Therefore, officials used \$8,121 of the Town's operating funds to make up for the financing shortfall but the interfund advances were not recorded or repaid. Because water districts are typically created to provide water services to only a portion of a town, using Town operating funds to pay for a portion of the cost incurred to establish or construct a water district creates a taxpayer equity issue that results in all Town taxpayers, not just those benefitting from the new water districts, to pay for these expenditures.

In addition, neither the Board nor the Supervisor reviewed the grant reimbursement applications prepared and submitted by the Advisor for the water district #11 and #12 projects. As a result, two potentially eligible expenditures totaling \$3,496 were not included in the grant reimbursement applications<sup>4</sup> and the Town received less funding than it was entitled to. These expenditures included:

- \$2,758 for the median household income survey for water district #12, and
- \$738 for the BAN closing fee for water district #11.

The Supervisor and two Board members told us they did not know why these expenditures were not included in the grant reimbursement applications. Had the Board established itemized budgets for these projects and periodically compared actual expenditures to an approved budget, the Board and Supervisor may have identified the eligible costs not included in reimbursement applications.

Finally, the Board did not properly finalize and close the capital projects in a timely manner. For example, the Board approved finalizing and closing out the water district #11 project in November 2019, but the Board did not review final cost

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2 New York State General Municipal Law Section 9-a allows towns to temporarily advance money held in any fund to any other town fund. Any advance made must be repaid no later than the close of the fiscal year in which the advance was made.

3 Financing sources were less than anticipated because certain expenditures incurred were either not submitted for or were ineligible for grant reimbursements.

4 The water district #11 and #12 projects were primarily funded by United States Department of Agriculture Rural Development (USDA) grants and loans.



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reports or ensure the project was properly closed. As a result, the Town continued to pay the annual \$110 construction permit fee to the New York State Department of Conservation (DEC) for 2020, 2021 and 2022, with fees totaling \$330.

Because the Board was relying on the Engineer and the Advisor to manage the capital projects, the Board was not aware of project overruns, cash flow issues or financing source shortfalls. Moreover, because the Board did not monitor spending and cash flow, it created a taxpayer equity issue because a portion of the costs to construct water districts was paid for by taxpayers not living in or receiving benefit from these water districts.

### **What Do We Recommend?**

The Board should:

1. Adopt an itemized budget for each authorized capital project and periodically compare the adopted capital project budget with actual financing sources and expenditures.
2. Monitor capital project activity to ensure that costs are kept within an authorized budget and prevent cost overruns.
3. Review and approve all budget modifications and change orders.
4. Approve the finalization and closure of each project and review final cost reports to ensure project records are complete and costs have been attributed to the appropriate project.
5. Develop a plan to repay the interfund advances from the operating funds that were used to pay for capital project expenditures.

The Supervisor should:

6. Record adopted capital project budgets in the accounting records and establish a separate capital projects fund for each authorized project.
7. Deposit debt proceeds in a separate bank account and only use BAN and bond proceeds for their intended purposes.
8. Maintain adequate, separate accounting records to account for each project's financial activity and provide periodic financial reports to the Board that compare adopted project budgets with actual financing sources and expenditures.
9. Perform a cash flow analysis and a periodic assessment of the availability and timeliness of financing sources and ensure available funding is adequate to meet individual capital project cash flow needs.


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10. Review grant reimbursement applications to ensure all eligible expenditures are included and consider requesting reimbursement for any eligible costs not yet submitted for reimbursement.
  11. Record interfund loans in the accounting records and repay all interfund advances made to help finance the construction of water districts #12 and #13.
  12. Ensure the DEC is notified about the completion of water district #11 to stop the construction permit fee bills.

# Appendix A: Response From Town Officials

The Town's response letter may refer to page numbers that appeared in the draft report. The page numbers may have changed during the formatting of this final report.

## TOWN OF STAFFORD

Est. March 24, 1820

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RONALD PANEK Deputy Supervisor			ROBERT MATTICE ROBERT PENEPEP Town Justice	GENE SINCLAIR Code Enforcement Officer DONALD MULLEN Zoning Enforcement Officer
BARBARA RADLEY Town Clerk				

June 5, 2024

Office of the State Comptroller  
Division of Local Government & School Accountability  
Buffalo Regional Office  
295 Main Street  
Suite 1032  
Buffalo, New York 14203-2510

In reference to the draft audit report dated 4/23/24 which was discussed on 5/9/24, we find the following statements to be inaccurate.

In reference to page 6, paragraph 4: *"and bond proceeds totaling \$266,000 were used to temporarily pay for Town operating expenditures."* [REDACTED] provided backup to this statement in an [REDACTED] document, which has been reviewed. Two key components are left off the spreadsheet. One being a deposit in transit at 9/29/23 from [REDACTED] which posted on 10/2/23. This transfer was done from the Town's [REDACTED] operating fund cash to ensure that the 0922 operating fund cash balances were not negative at 9/30/23. Considering the deposit in transit, this would place the Town's operating cash balance at \$108,467.45 on 9/30/23, not (\$22,532.55). The second key component that is missing from this spreadsheet is the 10/5/23 \$321,098.09 wire payment to [REDACTED] to pay off the maturing BAN issued 10/4/2022. This would place the Town's operating cash balance at \$55,085.77 on 10/30/23, not (\$266,012.32). Additional information showing the [REDACTED] transfer on 9/29/23 posting to the 0922 account on 10/2, the wire for WD#12 BAN payment posting to the 0922 account on 10/5/23 (with backup from [REDACTED]) has been provided to your department via email. The email containing the [REDACTED] from [REDACTED] and the revised [REDACTED] to show the missing components in orange and the resulting changes in yellow were also provided to your department via email.

See  
Note 1  
Page 11

See  
Note 2  
Page 11

See  
Note 3  
Page 11

In reference to the sentence *"They were also not aware that bond proceeds had been used improperly for Town operating expenditures because they did not perform cash flow analyses or properly account for and segregate capital project financial activity."* Bond proceeds were not used improperly as shown above.

See  
Note 3  
Page 11

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In reference to page 6, paragraph 5: *“the Supervisor only reviewed the cash balance report and did not provide these reports to the Board.”* The Town Supervisor, Town Board members, and Town clerk are provided a packet monthly which includes cash balance reports (supervisor’s report), balance sheets, trial balance, revenues, and expenditure reports. The Deputy Supervisor also reviews monthly bank statements with corresponding reconciliations supporting the monthly activity and balances.

See  
Note 4  
Page 11

In reference to page 7, paragraph 2: *“and officials did not repay the operating funds that advanced the startup funds for the project, as required.”* Although the temporary interfund advances were not recorded as a due to/from, the negative capital project cash was being tracked in an [REDACTED] spreadsheet. Operating funds were made whole by the \$310,000 BAN issued 10/4/22. Additional information showing the reconciliation has been provided to your department via email.

See  
Note 5  
Page 11

Respectfully,

Robert S. Clement,  
Town Supervisor

“This institution is an equal opportunity provider and employer. To file a complaint of discrimination, write USDA Director, Office of Civil Rights, 1400 Independence Ave. SW, Washington, DC 20250-9410 or call (800) 795-3272 (Voice) or (202) 720-6382 (TDD).”

# Appendix B: OSC Comments on the Town's Response

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## Note 1

After the exit conference, we were provided with additional documentation. We updated the audit report to reflect the new information officials provided.

## Note 2

The cash flow analysis spreadsheet did not include the deposit in transit because these were operating funds that were not related to the capital project. As such, the deposit in transit would have no bearing on the amount of debt proceeds remaining in the bank account.

## Note 3

Town officials incorrectly state in their response that the \$321,098 wire payment was made to pay off a maturing BAN. Based on information provided by the Town's financial advisor, the Town did not pay off a maturing BAN; the BAN was renewed. The Town's bookkeepers were unaware of the differences between accounting for the redemption of a maturing BAN and a BAN renewal. Based on inaccurate information they provided, we originally accounted for the wire payment as a payment of BAN principal and interest on a maturing BAN. Based on additional documentation that was provided by the Town's financial advisor, after our exit discussion, we adjusted our cash flow analysis to reflect the cash outflow and inflow resulting from the BAN renewal. The final audit report was also updated accordingly to indicate that the Town used \$22,500 instead of \$266,000 in debt proceeds improperly for operating expenditures.

## Note 4

As a result of the audit exit conference, we clarified the report language and provided officials with the updated language. However, officials responded to the original draft report language.

## Note 5

Adequate capital project accounting records were not maintained. All operating funds used for capital project expenditures were not repaid to the appropriate operating fund or prior to the end of the fiscal year in which the funds were advanced as required.

## Appendix C: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as work performed in our audit procedures to achieve our audit objective and obtain valid audit evidence, included the following:

- We interviewed the Supervisor, three Board members, Town Clerk and Financial Clerk, and reviewed Board meeting minutes and capital project records to gain an understanding of the Town's procedures for capital project administration and accounting.
- We reviewed Board meeting minutes and accounting records for all capital project-related interfund transfers and loans to verify whether interfund transfers and loans were accurately recorded in the Town's accounting records.
- We reviewed Board resolutions, related debt issuances and bank statements to verify whether debt proceeds were deposited in a separate bank account.
- We reviewed the Town's accounting records and related supporting documentation for capital project expenditures made between June 13, 2017 through August 15, 2023 totaling approximately \$1.6 million to determine whether expenditures were accurately recorded and supported.
- We recalculated capital project expenditures and compared them to the USDA reimbursement applications to determine whether the Town received reimbursement for all eligible expenditures for the water district #11 and #12 capital projects.
- We recalculated the capital projects fund balances (financing sources less expenditures) to determine whether the actual expenditures were more than the Board-authorized amount.
- We reviewed the availability and timeliness of project financing sources and compared them to the expenditures to determine whether there was adequate cash flow for the projects' needs.
- We reviewed Board meeting minutes and resolutions and interviewed Board members to determine whether the Board finalized and approved closing out capital projects in a timely manner.
- We reviewed change orders and Board meeting minutes to determine whether the Board reviewed and approved the change orders to ensure that changes were within the scope of the projects.

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We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Town Clerk's office.

## Appendix D: Resources and Services

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### **Regional Office Directory**

[www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf](http://www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf)

**Cost-Saving Ideas** – Resources, advice and assistance on cost-saving ideas

[www.osc.ny.gov/local-government/publications](http://www.osc.ny.gov/local-government/publications)

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